

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2000-564-C - ORDER NO. 2001-245
MARCH 16, 2001

IN RE: Application of E-Z Access USA, Inc. for a)	ORDER
Certificate of Public Convenience and)	GRANTING
Necessity to Local Exchange)	CERTIFICATE FOR
Telecommunications Services in the State of)	LOCAL SERVICES
South Carolina.)	

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of E-Z Access USA, Inc. ("E-Z Access" or the "Company") requesting a Certificate of Public Convenience and Necessity to provide local exchange telecommunications services in the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1999) and Section 253 of the Telecommunications Act of 1996.

By letter, the Commission's Executive Director instructed E-Z Access to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The proposed Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. E-Z Access complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC") on January 19, 2001.

On February 2, 2001, counsel for SCTC filed with the Commission a Stipulation in which E-Z Access stipulated that it would seek authority in non-rural local exchange ("LEC") service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until E-Z Access provided written notice of its intent prior to the date of the intended service. E-Z Access also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. E-Z Access agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to E-Z Access to provide local services provided the conditions contained in the Stipulation are met. The Stipulation was entered into the evidence of the hearing, and the Staff requested that the Stipulation be approved by the Commission. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on February 21, 2001, at 2:30 p.m., in the Commission's Hearing Room. The Honorable H. Clay Carruth, Jr., Chairman, presided. E-Z Access was represented by Bonnie D. Shealy, Esquire. Adelaide D. Kline, Staff Counsel, represented the Commission Staff. Roy H. Barnette, Auditor, Utilities Department, and David S. Lacoste, Utilities Engineer, Utilities Department, testified on behalf of the Commission staff.

Robert DeMello, Chief Executive Officer of E-Z Access, appeared and testified in support of the Application. Mr. DeMello testified he is in charge of the day to day management of E-Z Access. Upon receiving certification from the Commission, E-Z Access seeks to provide

resold competitive local telecommunication services throughout the BellSouth region in the State of South Carolina.

According to the record, E-Z Access is a Georgia corporation that has received authorization to transact business within the State of South Carolina. Mr. DeMello testified that E-Z Access is currently providing services in Georgia to approximately 1,500 customers, and is also certificated, but not yet providing services, in the states of Florida and Kentucky. He said his Company would like to begin services in South Carolina as soon the certification process is completed. He further stated he has entered into an interconnection agreement with BellSouth on a regional basis; will start operating in South Carolina as soon as certificated and BellSouth issues the Company a billing number for South Carolina. Mr. DeMello further testified that his Company has three offices in Georgia and intends to provide a storefront presence in South Carolina when the facility is warranted.

Initially, E-Z Access intends to provide prepaid local services to residential and business customers in South Carolina. E-Z Access plans to provide a full range of intrastate local exchange telecommunications services and exchange access telecommunications services that may be available from existing local exchange carriers, including residence and business flat rate, residence and business measured rate, residence and business key lines, PBX, direct inward dial, direct outward dial, ISDN, basic and primary rate interface, switched access, CENTREX, switched data services, private line and special access services as well as vertical services such as custom calling, voice mail, card services, and pay phones.

Mr. DeMello addressed E-Z Access' managerial, financial, and technical ability to provide local exchange telecommunications services in South Carolina. Mr. DeMello explained his background and experience in the telecommunications industry, and the experience and

background of other key management team members. Mr. DeMello received training from BellSouth and was involved in telecommunications during his service in the United States Air Force. Mr. DeMello stated that Kimberly Campbell, a corporate officer and a store and customer service manager, was trained by BellSouth and handles orders, customers, and maintenance. He said Brandee Griffin, also a store and customer service manager, has two years experience in telecommunications and was, at the time of the hearing, being trained by BellSouth in Atlanta, Georgia. The record reveals that Jill Pemberton is the Company's bookkeeper with three and a half years experience in accounting. Mr. DeMello stated that the officers and management team of E-Z Access have substantial experience in the telecommunications industry. He said Ken Bess, who has fifteen years experience in programming, networking and analysis, serves as Technical Manager and keeps E-Z Access up to date in all of its computer operations. Mr. DeMello will be the company's regulatory and financial contact person.

The record reveals that E-Z Access will bill its customers directly. The Company's name, address and toll-free telephone number appear on the bill. Additionally, the Company will operate a customer service department. The toll-free telephone number is (888) 500-4880. Kimberly Campbell and Brandee Griffin serve as customer service managers. Mr. DeMello testified that the toll-free customer service number is handled by a live voice from 9:00 a.m. until 6:00 p.m. Monday through Friday, and from 10:00 a.m. until 2:00 p.m. on Saturday, with voice mail available twenty four hours a day. He further stated that E-Z Access places orders with BellSouth through a secure, high speed internet access LENS program. He said BellSouth responds to trouble reports by giving the Company guaranteed repair by 7:00 p.m. the following day.

Mr. DeMello stated that his Company generally uses television advertising in the target market of the Augusta, Georgia, area and intends to modify that advertising to invite customers from South Carolina to subscribe to its services. He said the monthly rate for residential prepaid local telephone service is currently \$48.50 and \$58.50 for business customers. He said his Company does not intend to do any telemarketing but is aware of the Commission's marketing guidelines.

Regarding the Company's financial ability to offer telecommunications services in South Carolina, Mr. DeMello testified that E-Z Access' financial ability has been evidenced by its financial statements that were submitted with the Application. He said his personal real estate portfolio would provide financial resources in the event of an emergency cash flow problem.

Roy H. Barnette, Commission Staff witness, testified that the Company submitted a balance sheet with its Application, dated October 31, 2000, which indicated the Company has cash that makes up 34% of its total assets. He testified that the Company's financial information indicates the Company appears to be financially strong with no long term debt and in a position to fund E-Z Access' operations. He further stated that the Company had a current ratio of 4.9 which means there were sufficient current assets to meet all the current liabilities as of the date of the statement. The Company requested the Commission's permission to be exempt from any record-keeping rules or regulations that might require the Company to maintain its financial records in conformance with the Uniform System of Accounts. According to the record, E-Z Access currently maintains its book of accounts in accordance with the Generally Accepted Accounting Principles ("GAAP").

Mr. Lacoste presented testimony to the Commission on the findings of the Utilities Department with respect to E-Z Access' Application for a Certificate of Public Convenience and

Necessity. According to Mr. Lacoste, E-Z Access seeks authority to offer a full range of local exchange telecommunications services within South Carolina via resale arrangements. E-Z Access also requested a waiver of S.C. Code Ann. Regs. 103-631 (1976) so that the Company will not be required to publish local exchange directories. According to the record, E-Z Access will make arrangements with the incumbent local exchange carriers whereby the names of E-Z Access' customers will be included in the directories published by the incumbent local exchange carriers. At the hearing, the Company additionally requested a waiver of 26 S.C. Code Ann. Regs. 103-610 (1976) so that E-Z Access can maintain its records outside of South Carolina. The Company wishes to maintain its books and records at its headquarters in Georgia.

The testimony reveals E-Z Access's presence in South Carolina as a telecommunications service provider will have a positive effect on the public interest. Upon receiving certification from the Commission, Mr. DeMello testified E-Z Access will abide by and comply with the Commission's rules and regulations and Commission Orders in its operations in South Carolina. Further, the testimony reveals E-Z Access has never had an application for a certificate of public convenience and necessity denied. Further, he testified E-Z Access will comply with South Carolina laws and with all applicable rules and regulations of the Commission. He agreed to make all tariff changes as suggested by the Commission Staff and additionally agreed to include the email address and telephone number on each tariff page. Finally, Mr. DeMello testified E-Z Access had not provided any intrastate telecommunications services within the State of South Carolina.

Upon consideration of the application and the record from the hearing, the Commission makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. E-Z Access is organized as a corporation under the laws of the State of Georgia and has received a certificate from the South Carolina Secretary of State to transact business within South Carolina as a foreign corporation.

2. E-Z Access wishes to provide local exchange services within the State of South Carolina.

3. The Commission finds that E-Z Access possesses the technical, financial, and managerial resources sufficient to provide the service requested. S.C. Code Ann. §58-9-280(B)(1) (Supp. 1999).

4. The Commission finds that E-Z Access's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 1999).

5. The Commission finds that E-Z Access will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (Supp. 1999).

6. The Commission finds that E-Z Access will provide services which will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (Supp. 1999).

7. The Commission finds that the provision of local exchange service by E-Z Access "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1999).

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to E-Z Access to provide competitive intrastate local exchange services within the State of South Carolina. The terms of the Stipulation

between E-Z Access and the SCTC (attached hereto as Exhibit 1) are approved and adopted as a portion of this Order. Any proposal to provide local services to rural service areas is subject to the terms of the Stipulation. In accordance with the Stipulation, E-Z Access may not provide any local service to a customer located in a rural incumbent LEC's service area, unless or until E-Z Access provides such rural incumbent LEC and the Commission, written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. The Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while it conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon a showing of good cause. It is specifically provided that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Order in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications as they may be entitled. If, after notice from E-Z Access that it intends to serve a customer located in a rural incumbent LEC's service area, and the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or if the Commission institutes a proceeding of its own, no service may be provided by E-Z Access in a rural incumbent LEC's service area pursuant to this Order without prior and further Commission approval.

2. E-Z Access shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters. Any proposed change in the rates reflected in the tariff for local services which would be applicable to the general body of the Company's

subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1999).

3. E-Z Access shall resell or provide the services of only those companies authorized to provide telecommunications services in South Carolina by this Commission.

4. E-Z Access shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

5. E-Z Access shall file annual financial information in the form of annual reports and gross receipt reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, E-Z Access shall keep such financial records on an intrastate basis as needed to comply with the annual report and gross receipt filings. The form the Company shall use to file annual financial information with the Commission can be found at the Commission's web site at www.psc.state.sc.us/forms. This form is entitled "Annual Report for Competitive Local Exchange Carriers". Additionally, pursuant to the Commission's regulations, the Company shall file a CLEC Service Quality Quarterly Report with the Commission. The proper form for this report is Form #110 and can be found at www.psc.state.sc.us/forms/default.htm.

6. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs E-Z Access to contact the appropriate authorities regarding 911 service in the counties

and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association (“SC NENA”) with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, E-Z Access shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company’s operations as required by the 911 system.

7. The Company shall, in compliance with Commission regulations, designate and maintain authorized utility representatives who are prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the names of the authorized representatives to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

E-Z Access shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. (Attachment A shall be utilized for the provision of this information to the Commission.) Further, the Company shall promptly notify the Commission in writing if the representatives are replaced. E-Z Access shall also file with the Commission a copy of its general Bill Form as required by S.C. Code Regs. 103-612.2 and 103-622 (1976 and Supp. 1999).

8. E-Z Access requested waivers from certain Commission regulations and requirements. Specifically, E-Z Access requested waivers from (1) the requirement found in Rule

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103-631 to publish and distribute local exchange directories and (2) the requirement to keep its books and records in South Carolina. The Company also requested permission to exempt it from any requirement to maintain books and records in compliance with the USOA. The Commission grants the request for waiver from the requirement to publish directories as E-Z Access has indicated that it will contract with the incumbent local exchange company to include the customers of E-Z Access in the directory listing of the ILEC directory. The Commission also grants the Company's request for a waiver of the requirement that books and records be kept in South Carolina. E-Z Access has permission to maintain its books and records at its corporate headquarters in Georgia. Further, the Commission grants E-Z Access's request that it be allowed to keep its books and records in accordance with GAAP rather than the USOA. E-Z Access is directed to comply with all Commission regulations, unless a regulation is specifically waived by the Commission.

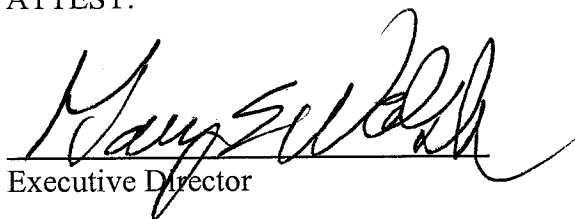
9. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Chairman

ATTEST:


Executive Director

(SEAL)